



**S U P P L E M E N T No. 2
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1296 of 16th July 2003
L E G I S L A T I O N**

THE INCOME TAX ORDINANCE 2003

ORDINANCE 29 OF 2003

ARRANGEMENT OF SECTIONS

**PART I
PRELIMINARY PROVISIONS**

1. Short title.
2. Interpretation.

**PART II
ADMINISTRATIVE PROVISIONS**

3. The Commissioner.
4. Secrecy and confidentiality.

**PART III
CHARGE OF TAX**

5. Charge of tax.
6. Basis of charge of tax.
7. Date for closing annual accounts of a business.
8. Exemptions.
9. Deductions allowed.
10. Reductions and additions on account of fixed assets.
11. Deductions not allowed.
12. Valuation of trading stock on discontinuance of a business.
13. Allowance of trade losses.
14. Deduction in respect of life insurance and contributions to pensions and other funds.

**PART IV
SPECIAL METHODS OF TAXATION IN RELATION TO
PARTICULAR FORMS OF INCOME**

15. Non-residents' pensions from abroad.
16. Income from intellectual property rights etc.
17. Income of certain classes of non-residents.
18. Deductions for tax chargeable under sections 16 and 17.

**PART V
TAX RATES**

19. Tax rates.

**PART VI
REORGANISATION OF COMPANIES**

20. Transfer of assets and liabilities between companies on a re-organisation.
21. Transfer of accumulated losses.
22. Certain profits of transferee company not subject to tax.
23. Shares in transferee company issued to shareholder of transferor company.
24. Interpretation of Part VI.

**PART VII
PERSONS ACTING IN A REPRESENTATIVE CAPACITY**

25. Managers and others acting in a representative capacity.
26. Attorneys and others acting for non-residents.
27. Transactions between associated parties.

**PART VIII
DOUBLE TAXATION RELIEF**

28. Making of arrangements with foreign Governments for relief from double taxation.
29. Application of arrangements for relief from double taxation.
30. Other relief from double taxation.

**PART IX
GENERAL POWERS OF THE COMMISSIONER**

31. Commissioner's powers to require particulars etc.
32. Commissioner's power to treat a company as receiving interest at a fixed rate of 9%.

**PART X
ASSESSMENT AND CHARGING OF TAX ON SALARIES**

33. Meaning of "salary".
34. Retention of tax on payment of salary.
35. Other provisions of Ordinance applicable to salaries.

**PART XI
MISCELLANEOUS PROVISIONS**

36. Tax provisions of Treaty of Establishment to prevail.
37. Regulations.
38. Repeals, commencement and transitional provisions.

ORDINANCE 29 OF 2003

AN ORDINANCE TO PROVIDE FOR THE AMENDMENT AND CONSOLIDATION OF THE LAW RELATING TO INCOME TAX

**T.W. RIMMER
ADMINISTRATOR**

7th July 2003.

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:-

PART I PRELIMINARY PROVISIONS

1. This Ordinance may be cited as the Income Tax Ordinance 2003. Short title.

2. In this Ordinance, unless the context otherwise requires - Interpretation.

“business” means any commercial or industrial business, occupation or light industry, provision of paid services (other than as an employee), self-employment or other occupation of a commercial character;

“Commissioner” means the Fiscal Officer who is charged, in accordance with section 3(1), with the due and proper administration of this Ordinance, and includes any person duly authorised by the Commissioner under section 3(2) to exercise any powers or to perform any duties under or for the purposes of this Ordinance;

“company” (except in the expression “company tax”) has the meaning given to this term by the Companies Ordinance and includes any body, fraternity, brotherhood, society or other association of persons, whether or not having legal personality, including any substantially similar company established or registered in the Republic and any company of a description falling within the First Schedule, but does not include any partnership;

“company tax” means tax charged on the income of any company in accordance with the provisions of this Ordinance;

Cap.113 (Laws of Cyprus) as amended by Ordinances 11/68, 10/87, 9/90 and 7/95.

First Schedule.

“guardian” in relation to a person who is under full age shall include a parent of that person;

“investment income” means any income not acquired or arising from any business, pensions or other annual income paid for services which have been provided;

“permanent establishment” in relation to any business shall be construed in accordance with paragraphs (a) to (g) below –

- (a) the expression includes a permanent base of the business, through which the operations of the business are carried out in whole or in part;
- (b) the business includes in particular the following premises of a business-
 - (i) its head office,
 - (ii) a branch,
 - (iii) an office,
 - (iv) a factory,
 - (v) a laboratory,
 - (vi) a mine, oil-well or gas well, quarry or any other place for the abstraction of natural sources of gas;
- (c) a building site or construction site at which building or construction operations or supervisory activities are carried out by a business for a period exceeding three months shall constitute a permanent establishment of the business;
- (d) notwithstanding the provisions of paragraphs (a), (b), and (c), the expression “permanent establishment” does not include-
 - (i) the use of facilities only for the purposes of restocking, exhibiting or delivering of goods or merchandise belonging to the business,
 - (ii) the maintaining of stocks of goods or merchandise belonging to the business only for the purpose of restocking, exhibiting or delivering,
 - (iii) the maintaining of stocks of goods or merchandise belonging to the business only for the purpose of their processing by another business;
 - (iv) the maintaining of a fixed base of the business only for the purpose of buying goods or merchandise or the collection of information for the business;
 - (v) the maintaining of a fixed base of the business only for the purpose of carrying out, for the business, any other activity of a preparatory or ancillary character;
 - (vi) the maintaining of a fixed base of the business only for purposes of any combination of the activities mentioned in subparagraphs (i) to (v) above, provided that the total activity of the fixed base of the business arising from this combination has a preparatory or ancillary character;
- (e) notwithstanding the provisions of paragraphs (a) and (b),

where an agent, other than an independent agent to whom paragraph (f) below applies, acts in the Areas on behalf of a business pursuant to an authorisation under which he commonly acts, to enter into contracts in the name of the business, the business shall be considered as having a permanent establishment in the Areas in respect of any activities which the agent undertakes for the business, unless those activities are limited to those described in paragraph (d) which, if they were carried out through a fixed base of the business, would not make the fixed base a permanent establishment under the provisions of that paragraph;

- (f) a business shall not be considered as having a permanent establishment in the Areas by reason only that it carries out operations in the Areas through a broker, a general commission merchant or any other independent agent, if such person is acting in the normal course of his business as a broker, general commission merchant or other independent agent;
- (g) the fact that a company which is resident in the Areas controls or is controlled by a company which is not resident in the Areas, or carries out works outside the Areas, whether or not through a permanent establishment of the other company, does not of itself make a permanent establishment of either company a permanent establishment of the other company;

“resident in the Areas” in relation to an individual, means an individual who resides in the Areas for one or more periods exceeding in aggregate 183 days in the tax year, and in relation to a company, means a company the control of which is exercised from an address in the Areas; and cognate expressions shall be construed accordingly:

Provided that a person who is present in the Areas for part of any day shall be regarded as being present there for the whole of that day;

“tax” (except in the expression “tax year”) means tax charged under this Ordinance;

“taxable income” means the remainder of the amount of the income of any person from the sources specified in section 5, after subtracting any amounts provided for under this Ordinance or under any other legislation;

“tax year” means the twelve-month period beginning on 1st January and ending on 31st December of each year;

“titles” means shares, stocks, bonds, founders’ and other shares of companies or other bodies corporate, wherever established.

PART II

ADMINISTRATIVE PROVISIONS

The Commissioner.

3. - (1) The Fiscal Officer of the Areas (hereinafter referred to as “the Commissioner”) shall take all such action as he deems necessary or expedient for the due and proper administration of this Ordinance.

(2) The exercise of any of the powers conferred, and the performance of any of the duties imposed on the Commissioner under this Ordinance may be exercised or performed by any person duly authorised for those purposes by the Commissioner.

Secrecy and confidentiality.

4. – (1) Any person having any official duty or employed in the administration of this Ordinance shall regard and deal with any information and any tax returns, tax assessments or any other documents relating to the income of any person as secret and confidential.

(2) Any person who acquires control of, or knowledge of the contents of any tax return, tax assessment or any other document relating to the income of any person shall not transfer custody of such document nor disclose or attempt to disclose any part of the contents of such document otherwise than for the purposes of this Ordinance:

Provided that the Administrator may, in the public interest, authorise the transfer of such document or the disclosure of the whole or part of its contents to such person as he may specify.

PART III

CHARGE OF TAX

Charge of tax.

5.-(1) Subject to the provisions of this Ordinance, in relation to a person who is resident in the Areas, for each tax year, tax shall be charged and payable at the rate or rates, as more particularly specified in this Ordinance, on the income earned or arising from sources both within and outside of the Areas, in respect of-

- (a) profits or other benefits from any business for whatever period of time such business is carried on;
- (b) profits or other benefits from any employment, including the estimated annual value of any accommodation, board or residence, or of any other allowance, whether or not in money form, granted in respect of the employment and provided to the person employed or to any other member of his family;
- (c) any dividends, interests or discounts;
- (d) any pension or income amounts payable pursuant to a court order or in accordance with a term of a will or covenant, or any charge or annuity;
- (e) any rent, royalty, premium or other profit arising from property, including the value of any benefit accruing to a landlord from any erection or construction or any extension or alteration to any erection or construction where the costs of such erection, construction, extension or alteration are borne by the tenant. The value of such benefit shall be

determined by the Commissioner for the year in which the erection, construction, extension or alteration is carried out, allowing for depreciation in accordance with section 10 (subject to appropriate modifications) and taking into consideration all the circumstances of the case:

Provided that the value of any such benefit-

- (i) shall not be determined as exceeding the actual costs of the erection, construction, extension or alteration;
- (ii) shall be distributed by the Commissioner evenly over the remaining period of the tenancy; but if the landlord disposes of the land concerned before the tenancy expires, the value of the benefit remaining to be distributed shall be considered as income of the landlord for the year in which the disposal of the land occurred or as income for that year and the preceding five years or, if the tenant was not in occupation of the erection, construction, extension or alteration for the whole of the preceding five years, of such lesser number of years as he was in such occupation;
- (f) any consideration for goodwill reduced by the amount charged for the purchase of the goodwill.

(2) Subject to the provisions of this Ordinance, a person who is not resident in the Areas shall, for each tax year be liable to a charge for tax at a rate or rates, as more particularly specified in this Ordinance, on income earned or arising from sources within the Areas only , in respect of-

- (a) profits or other benefits from a permanent establishment in the Areas:

Provided that profits or benefits from a business of operating a ship or aircraft in respect of charges for passengers, merchandise or postal objects boarded or loaded in the Areas, shall be subject to tax whether or not the business concerned has a permanent establishment in the Areas;

- (b) profits or other benefits from any employment, including the estimated annual value of any accommodation, board or residence, or of any other allowance, whether in money or other form, granted in respect of the employment and provided to the person employed or to any member of his family;
- (c) pensions in respect of employment carried out in the Areas, income payable pursuant to a court order or a term of a will or covenant in the Areas, or any charge or annuity payable directly or indirectly by a person who is resident in the Areas, excluding any pension paid from, or from a fund created by the Administration or a local authority;
- (d) income falling within paragraph (e) of subsection (1);
- (e) any consideration for goodwill reduced by the amount charged for the purchase of the goowill;
- (f) whether or not there exists a permanent establishment in the Areas relating to the activity, income received by any person for exercising in the Areas any occupation or profession, or

payment to a person for providing entertainment services to the public, and gross receipts of any theatre or musical or other society or other group of people, including football teams and other sports groups from abroad, providing entertainment services to the public, arising from shows or events in the Areas.

(3) For the purposes of this section, any income from the selling of trees in respect of which any deduction is allowed under section 9 or any compensation is or will be received under an insurance policy or otherwise in respect of damage to or destruction of such trees, shall be treated as income subject to tax:

Provided that such tax shall be charged on an amount not exceeding the amount of the deductions which have been allowed up to the time that the trees had become productive, or the amount of the premiums paid, as the case may require.

(4) Persons having their permanent establishment in the Areas shall be treated in the same way as residents of the Areas are treated.

6. Tax shall be charged and payable on the taxable income of any person for the tax year in which the income arises.

7. The annual accounts of persons carrying on a business shall be closed on the last day of the tax year:

Provided that the Commissioner may permit any person to close the annual accounts of his business at a date other than the last day of the tax year but in such a case the taxable income based on the income of the year ending on that other date shall be apportioned to the tax year concerned in accordance with such conditions as the Commissioner may deem fair and reasonable.

8. The following shall be exempt from tax-

(a) the emoluments payable from United Kingdom Government funds to members of Her Majesty's Forces and to persons occupying posts as public officials, as so classified by the Commissioner, in the service of the United Kingdom Government or the Administration in the Areas in respect of their offices under the United Kingdom Government or the Administration;

(b) the emoluments payable to members of a civilian component (as defined in paragraph 1(b) of Annex C to the Treaty) in respect of their employment by an authorised service organisation (as defined in paragraph 1(b) of Part I of Annex B to the Treaty);

(c) pensions and temporary allowances payable under Republican Law No. 114(I)/1988 as amended or substituted from time to time (relief for victims);

(d) widows' pensions payable under Republican Law No. 41/1980 as amended or substituted from time to time, or under any retirement scheme approved in accordance with regulations made under legislation of the Republic;

(e) any lump sum received by way of gratuity upon retirement, changing of pension, gratuity due to death or compensation

Basis of charge
of tax.

Date for closing
annual accounts of
a business.

Exemptions.

- in the form of a lump sum due to death or bodily harm;
- (f) income arising from a scholarship or any other similar educational endowment held by a person receiving full-time instruction at a university, college, school or other educational establishment;
 - (g) capital sums accruing to individuals from any payments which are allowable deductions under section 14;
 - (h) income of a religious, charitable or educational institution of a public character in so far as such income is applied to religious, charitable or educational purposes;
 - (i) income of any co-operative savings bank arising from transactions with its members;
 - (j) income of any local authority in so far as such is not derived from any business carried on by the local authority;
 - (k) the income of any fund falling within section 14(c);
 - (l) subject to such conditions as the Administrator may impose, the income of a company established exclusively to promote art, science or sports, and which does not aim to make a profit for itself or its members, and whose activities are limited solely to such purposes;
 - (m) the entire income of an individual from interest and fifty percent of the income of a company from interest:
- Provided that interest received by a person from the normal carrying on of his business, including interest arising from activities closely related to the normal carrying on of his business, shall not be treated as interest for the purposes of this paragraph;
- (n) income from dividends;
 - (o) twenty percent of the payment from any employment carried out in the Areas by a person who was not resident in the Areas before the beginning of his employment in the Areas, or £5,000, whichever is the lesser amount. This exemption applies for a period of three years starting on 1 January of the year following the year in which employment in the Areas started;
 - (p) profit from the disposal of titles.

9. – (1) Subject to the provisions of subsection (2), for the purpose of ascertaining the taxable income of any person there shall be deducted all outgoings and expenses wholly and exclusively incurred by him in the production of the income, including—

Deductions allowed.

- (a) any sum spent for the repair of premises, plant, machinery and means of transport, or for the renewal, repair or alteration of any tool, utensil or other article used for the earning of income;
- (b) contributions regularly and ordinarily paid by an employer to a fund falling within section 14;
- (c) bad debts of any business, if the Commissioner is satisfied that such debts have become bad debts during the tax year and that they were actually written off with a permanent

entry during the same year, notwithstanding the fact that such debts were due and payable before the beginning of the said year, as well as the amount of any forecast concerning any future bad debts in respect of which the Commissioner is satisfied that they have been or will in due course be written off as bad debts:

Provided that any amount received during the said year relating to amounts previously written off as bad debts or deducted as bad debts under the provisions of any earlier legislation charging tax on income, or under the provisions of this Ordinance, shall be treated, for the purposes of this Ordinance, as receipts of the business, for that year;

(d) costs on scientific research incurred by a person carrying on a business, provided that the Commissioner is satisfied that such costs were incurred for the use and benefit of the business:

Provided that no deduction shall be allowed under this subparagraph for expenditure on the acquisition of plant, machinery or buildings, including dwellings for employees, in respect of which a deduction may be allowed under section 10:

Provided further that any such expenditure of a capital nature, in respect of which deductions may not be allowed under section 10, shall be spread equally between the tax year in which it was incurred and the subsequent five years;

(e) any expenditure for the obtaining of patents or rights on them, or intellectual property rights, incurred by a person carrying out a business, in respect of which the Commissioner may be satisfied that it was incurred for the benefit of the business:

Provided that such an expenditure of a capital nature shall be distributed, in a reasonable manner in the Commissioner's judgement, in the time period of the privilege or right on such expenditure:

Provided further that such an amount received or owed after the selling of such patents or rights on them, or intellectual property rights, or part of them, as well as all exploitation rights or other income received or owed with regard to them shall be included in the taxable income;

(f) donations or contributions made for educational or other charitable purposes to the Administration or a local authority or to any charitable institution approved as such by the Administrator:

Provided that, notwithstanding any provision of this Ordinance to the contrary, where any loss is incurred in the year a donation or contribution is made, no part of the loss up to the amount of the donation or contribution may be transferred, compensated for or otherwise set off against the income of any subsequent year;

(g) expenditure, whether or not made for the purpose of the earning of income, for the maintenance, preservation or restoration of an ancient monument specified in the Second Schedule to the Antiquities Ordinance 1975, if the Chief Officer certifies that the expenditure was made for the completion of the maintenance, preservation or restoration

of the ancient monument:

Provided that no deduction may be allowed under this subparagraph-

- (i) to the extent that the expenditure exceeds one hundred and eighty pounds per square metre of the area of the ancient monument;
- (ii) in respect of any sum which the person beneficially interested in the ancient monument has received under section 8(2) of the Antiquities Ordinance 1975 or from any public fund;
- (h) any interest up to an amount of five hundred pounds payable in respect of a loan which a person has obtained for the reconstruction of a residence used by him or a child of his as his usual residence;
- (i) any interest payable in respect of the acquisition of assets used in the business;
- (j) amounts paid to a fund which is approved in accordance with regulations and which is for the purposes of maintaining a person studying at any university, college, school or other educational institution.

(2) In the case of income of a person from the leasing of any building twenty percent shall be subtracted from the gross income before any deduction for depreciation is made under section 10 and expenditure for interest.

10. – (1) In this section “fixed assets” means plant, machinery (other than a private motor vehicle) and buildings, including dwellings for employees, owned by a person carrying on a business and which are used by him in his business or used for scientific research in respect of which the Commissioner is satisfied that it is carried out for the benefit of the business.

Reductions and additions on account of fixed assets.

(2) In ascertaining the taxable income of a person carrying on a business, a deduction of a reasonable amount shall be allowed for the depreciation in the value of the fixed assets by reason of their use in the business during the tax year:

Provided that the total of any such deductions shall not exceed the capital expenditure incurred in acquiring the fixed assets:

Provided further that –

- (i) a person providing paid services shall not be entitled to a deduction in respect of any fixed asset mainly owned by him if he is not obliged, under the terms under which he provides his services, to use such asset in the performance of his duties and if any other compensation or allowance for such use is payable to him;
- (ii) if a fixed asset is used partly for business purposes and partly for private purposes, the Commissioner may specify the proportion of the capital expenditure in acquiring the fixed asset to be attributable to its private use, and deductions shall only be allowed in respect of such proportion of the capital expenditure as

is attributable to the use of the asset in the business;

- (iii) the useful life of a building shall be taken to be thirty three years, except in respect of an industrial building, for which it shall be taken to be twenty five years, and where a building is transferred whether by way of sale or otherwise, the transferee shall be entitled to claim deductions by reference to the original cost of the building for the remainder of its useful life.

(3) Where, in ascertaining the taxable income of a person carrying on a business, a deduction for a tax year has been allowed under the provisions of this section in respect of a fixed asset and, during the tax year-

- (a) the whole or part of the asset has ceased to belong to that person, whether by reason of the sale of the asset (or part of it) or for any other reason; or
- (b) the asset or part of it permanently ceases to be used by that person for the purposes of his business, whilst it nevertheless continues to belong to him;
- (c) the business is permanently discontinued at a time that the asset has not ceased to belong to that person,

the person concerned shall submit to the Commissioner, during the tax year, together with his tax return, a balancing statement in respect of the fixed asset in question, showing the following particulars –

- (i) the amount of capital expenditure for its acquisition;
- (ii) the total amount of depreciation which has occurred by reason of its use in the business from the date it was acquired, including the total amount of any deductions which had already been allowed under this section; and
- (iii) the amount of all sale, insurance, salvage or compensation money in respect of the asset:

Provided that the demolition of a building by or on the instructions of its owner shall not necessitate the submission of a balancing statement, if the demolition occurs before the expiration of a period of five years from the date that the asset was acquired.

(4) In order to ascertain the taxable income of a person who is required under subsection (3) to submit to the Commissioner a balancing statement, a deduction (hereinafter referred to as a “balancing deduction”) shall be made or, as the case may require, an addition (hereinafter referred to as a “balancing addition”) shall be made and such a balancing deduction or balancing addition shall be calculated by reference to the particulars contained in the balancing statement submitted by the person concerned in respect of the tax year, as follows-

- (a) the amount of a balancing deduction shall be the amount by which the amount described in subsection (3)(i) in the balancing statement exceeds the sum of the amounts described in subsection (3)(ii) and (iii) of that statement;

- (b) the amount of a balancing addition shall be the amount by which the sum of the amounts described in subsection (3)(ii) and (iii) in the balancing statement exceeds the amount described in subsection (3)(i) of that statement:

Provided that in no case shall the amount of the balancing addition exceed the aggregate of any deductions previously allowed under the provisions of this section and included in an amount of a description falling in subsection (3)(ii).

- (5) For purposes of subsections (3) and (4) "fixed assets" do not include buildings such as are described in section 9(2).

(6) Where any fixed asset in respect of which any of the events mentioned in paragraphs (a) and (b) of subsection (3) have occurred, is replaced by its owner and as a result a balancing addition falls to be made, then, if the owner by written notice to the Commissioner so chooses, the following provisions shall have effect, that is to say-

- (a) if the amount of the balancing addition which would otherwise have fallen to be made exceeds the capital expenditure on providing the new fixed asset-
 - (i) the balancing addition shall be limited to the amount of the excess; and
 - (ii) no balancing deduction under subsection (4) and no deduction under subsection (2) shall be allowed in respect of the new fixed asset; and
 - (iii) in considering whether any balancing addition falls to be made in respect of the capital expenditure in acquiring the new asset, an amount equal to the amount of the capital expenditure in obtaining the new asset shall be treated as the total of the deductions which have already been allowed under this section in respect of the new asset;
- (b) if the capital expenditure in acquiring the new asset is equal to or less than the amount of the balancing addition which would otherwise have fallen to be made-
 - (i) the balancing addition shall not be made; and
 - (ii) the amount of any deductions allowed under this section shall be calculated on the amount of the capital expenditure in acquiring the new asset, reduced by the amount of the balancing addition; and
 - (iii) in considering whether a balancing deduction or balancing addition in respect of the capital expenditure in acquiring the new asset falls to be made, the aggregate of the amounts of deductions previously allowed under this section in respect of the new asset shall be increased by an amount equal to the amount of the balancing addition which would otherwise have fallen to be made.

- (7) Where a person has submitted a balancing statement, the Commissioner may-

- (a) accept the statement and make a balancing deduction or balancing addition accordingly; or
- (b) reject the statement and determine, to the best of his

judgement, the amount of the balancing deduction or balancing addition falling to be made.

(8) For the purposes of this section -

- (a) the capital expenditure in acquiring any fixed asset shall be the amount which, in the opinion of the Commissioner, the asset would cost if it were bought in the open market at the time that it was acquired;
- (b) where any fixed asset is sold it shall be taken to be have been sold at the price which, in the opinion of the Commissioner, it would have sold on a sale in the open market at the time that it was in fact sold;
- (c) if a fixed asset ceases to be available for use for the purposes of a person's business and he has not sold it, or received any insurance money, salvage or compensation for it, the amount deemed to have been received by him in respect of the asset shall be such amount as, in the opinion of the Commissioner, the asset would have yielded if it had been sold in the open market at the time that it ceased to be available to that person for the purposes of his business;
- (d) the term "business" includes the letting or leasing of buildings;
- (e) any deduction allowed under any Ordinance repealed by this Ordinance shall be treated as if it were a deduction allowed under this Ordinance.

Deductions not allowed.

11. Notwithstanding the provisions of any other section, in order to determine the taxable income of any person the following shall not be deducted-

- (a) domestic or private expenses, including the costs of travelling between residence and place of business;
- (b) the rent for any premises owned and used by a person for the carrying on of his business;
- (c) any remuneration or interest on capital paid or credited to himself;
- (d) the cost price of any goods taken out of the business for the use of the proprietor or of any partner or of any member of the family of the proprietor or of any partner;
- (e) any disbursements or expenses not spent wholly and exclusively for the purpose of earning income;
- (f) any capital withdrawn or any amount used or intended to be used as capital;
- (g) the costs of any improvements, alterations or extensions;
- (h) any sum recoverable under a contract of insurance or indemnity;
- (i) rent for or costs of repairs to any premises not paid or incurred for the purpose of producing income;
- (j) any amounts paid or payable in respect of tax under this Ordinance;

(k) voluntary payments other than such payments as are allowed under section 14;

(l) any expenditure on business entertainment, including hospitality of any kind made with respect to the business:

Provided that this paragraph shall not apply to the extent that the total expenditure on business entertainment in the tax year does not exceed half percent of the gross earnings of the business up to a maximum amount of £5.000;

(m) costs related to the purchase, maintenance and running of a private motor vehicle;

(n) any amount paid or payable in respect of any tax related to a particular occupation;

(o) interest on a debt incurred in the purchase of a private motor vehicle, whether or not the vehicle is used in the business, or the interest on a debt incurred in the purchase of any item not used in the business:

Provided that this paragraph shall not apply after a period of seven years from the date of purchase of the relevant vehicle or item.

12. – (1) In calculating the taxable income of a person whose business has been discontinued during the tax year, trading stock belonging to the business at the time of the discontinuance shall be valued as follows-

(a) in the case of any trading stock-

(i) which is sold or transferred for valuable consideration to a person who carries on or intends to carry on a business in the Island of Cyprus, and

(ii) the cost of which the buyer may deduct as an expense in the determination of his taxable income under this Ordinance,

the value shall be taken to be the amount realized on the sale or the consideration given for the transfer; and

(b) in all other cases, the value of such trading stock shall be taken to be the price at which it could have been sold in the open market at the time that the business was discontinued.

(2) For the purposes of subsection (1) –

(a) in the event of the death of the person carrying on the business, the business shall not be considered as discontinued if it continues to be carried on by the heir of the deceased who undertakes in writing to continue the business;

(b) the expression “trading stock” in relation to any business, means property of any description, whether movable or immovable, being either-

(i) property such as sold in the ordinary course of business or which would be so sold if it were mature or if its manufacture or construction were complete, or

Valuation of
trading stock on
discontinuance of a
business.

- (ii) materials such as are used in the manufacture, preparation or construction of any such property as is referred to in subparagraph (i) above.

Allowance of trade losses.

13. – (1) Subject to subsection (9) below, where the amount of the loss of any person which, if it were profit or benefit would be taxed under this Ordinance, is such that it cannot be wholly set off against income from other sources for the same tax year, the amount of the loss, to the extent that it cannot be so set off, shall be carried forward and, subject to the following provisions, shall be set off against the chargeable income of that person for subsequent years:

Provided that –

- (a) if during any period of three years there is a change in the ownership of shares of a company or a substantial change in the nature of the business; or
- (b) if during any time after the scale of the business activities of a company has substantially declined or become negligible and before any substantial increase occurs in the scale of the business activities of the company there is a change in the ownership of the shares of the company,

no loss which arose from the change in ownership of the shares of the company shall be set off against the income for the years subsequent to the year in which such a change occurred.

(2) For the purposes of this section there is a change in ownership of the shares of a company if –

- (a) a person acquires more than half of the nominal share capital of the company; or
- (b) if two or more persons jointly or separately acquire at least 5% of the nominal share capital of the company so that between them they acquire over half the share capital of the company:

Provided that there is no change in the ownership of the shares of a company for the purposes of this section if the transaction concerns a gift of shares made by a parent to his child, or between spouses or relatives up to the second degree of relationship or to a company all the shareholders of which are members, and continue for a period of five years after the shares are gifted to be members, of the family of a testator.

(3) No loss may be accepted under this section in respect of a tax year for which the person liable to tax fails to submit his accounts within the period of six years commencing on the last day by which he was required to submit them.

(4) Subject to and in accordance with the provisions of the following subsections, losses may be assigned by a company resident in the Areas (“the assigning company”) to another company resident in the Areas and a claim may be submitted by that other company (“the applicant company”) to set off the losses of a group of companies as provided for in subsection (7).

(5) A set off of losses of a group shall be allowed where the assigning company and the applicant company are members of the same group for the whole of a tax year.

(6) Any payment for an assignment of losses between members of the same group-

- (a) shall not be taken into consideration in the determination of the taxable income of either the assigning company or applicant company; and
- (b) shall not be considered for the purposes of this Ordinance as either a distribution of dividend or as an expense.

(7) If during any tax year the assigning company has suffered a loss from the carrying on of a business, the loss may be set off for the purposes of the company tax against the total taxable income of the applicant company for its tax year:

Provided that in determining the loss which may be assigned, no loss which may have been assigned in a previous year may be taken into account.

(8) For the purposes of this section –

- (a) a payment for the assignment of losses of a group means payment made by the applicant company to the assigning company under an agreement between them in respect of an amount which may not exceed the amount of the losses assigned;
- (b) two companies shall be considered as members of a group if one of them is seventy five percent dependent on the other company or if each of them is seventy five percent dependent on a third company;
- (c) a company shall be considered as being seventy five percent dependent on another company if not less than seventy five percent of its nominal share capital carrying voting rights is held, directly or indirectly, by the other company and that other company is entitled to –
 - (i) the profits of the dependent company which are available for distribution, and
 - (ii) the assets of the dependent company which would be available for distribution to its shareholders if it were dissolved;
- (d) in determining whether a company is seventy five percent dependent on another company, the other company shall not be considered as the holder-
 - (i) of any share capital it holds directly in a company if the profit from the sale of shares in that company would be considered to be a commercial transaction; or
 - (ii) of any share capital it holds indirectly and which is held directly by a company the profit from the sale of whose shares would be a commercial transaction; or
 - (iii) of any share capital it holds directly or indirectly in a company which is not resident in the Island of Cyprus.

(9) Notwithstanding subsection (1), losses suffered by a person from a business carried on outside the Areas, whether or not through a permanent establishment, shall be deductible from the income of

such person from other sources for the same year, and to the extent that it may not be set off fully in this manner, the remainder of such a loss may be carried forward and, subject to the provisions of this Ordinance, may be set off against the income of that person for subsequent years.

(10) Where the owner of a business, including a partnership, transfers his business to a company, any accrued losses of the owner may be transferred to the company.

Deduction in
respect of life
insurance and
contributions to
pensions and other
funds.

14. In order to determine the taxable income of any person who-

- (a) has insured his life for a specified amount or for an amount which may be specified as payable upon his death, with an insurance company; or
- (b) has paid contributions to the widows' and orphans' pension fund established under any law of the Areas or of the Republic, or under any substantially similar law outside the Island of Cyprus; or
- (c) has paid contributions to any pension, provident or insurance fund approved by the Commissioner (wherever any such fund is established); or
- (d) has paid any premium or other contribution under a contract in a form approved by the Commissioner and which has as its main object the provision to the person concerned of an annuity in his old age; or
- (e) has paid any premiums or other contributions to an insurance company under a pension scheme or medical cover scheme approved in accordance with regulations of the Areas or of the Republic;
- (f) has paid any contribution under the law of any country providing for a national health scheme,

an allowance shall be given equal to the annual amount of the contributions or premiums, as the case may be :

Provided that -

- (i) the allowance given in respect of the premiums under a contract of life insurance shall not exceed seven percent of the amount payable on the death of the person concerned, excluding any additional benefit in the form of a gratuity or otherwise;
- (ii) the allowance in respect of premiums and contributions may not exceed one sixth of the taxable income of a person as determined in accordance with the provisions of this Ordinance before the allowances specified in this section are deducted;
- (iii) in the case of the surrendering of a life insurance contract within three years from the date of the contract, thirty percent of the premiums in respect of which an allowance was given under this section shall be added to the income of the person concerned and twenty percent of such premiums shall be added if the

surrender is made within the fourth, fifth or sixth year from the date of the insurance contract;

- (iv) paragraph (a) includes the premiums paid by a person under a life insurance contract on the life of his spouse entered into before this Ordinance comes into force if such premiums would have been deductible under the legislation relating to income tax which was in force before this Ordinance comes into force.

PART IV

SPECIAL METHODS OF TAXATION IN RELATION TO PARTICULAR FORMS OF INCOME

15. The income of a person who is resident in the Areas from a pension for services which have been provided elsewhere than in the Island of Cyprus and exceeding two thousand pounds shall be chargeable to tax at the rate of five cents per pound:

Provided that a person may for each tax year elect to be taxed either in accordance with the provisions of this section or in accordance with the provisions of Parts III and V.

Non-residents' pensions from abroad.

16. The gross amount arising in the Areas from any intellectual property rights, exploitation rights, compensation or other similar rights by any person who is not resident in the Areas and who is not carrying on any business in the Areas, or any amount received as consideration for the use, or for the right to use any copyright, right to exploit any design, secret method of manufacture or presentation, trade mark, method or other similar right, or received as consideration for technical assistance, shall be chargeable to tax at the rate of ten cents per pound:

Provided that where any such right is granted elsewhere than in the Areas such amount shall not be treated as income earned from sources in the Areas.

Income from intellectual property rights etc.

17. The gross income of any person who is not resident in the Areas from the exercise of any profession or occupation, the payment of persons who are not resident in the Areas for providing entertainment services to the public, and the gross receipts of any theatrical or music group or other group of persons, including football teams and other athletic or sports teams from abroad providing entertainment services to the public, and arising from exhibitions in the Areas, shall be chargeable to tax at the rate of ten cents per pound:

Provided that when under this section tax charged on a group or team, the individual members of the group or team shall not be personally liable for the tax.

Income of certain classes of non-residents.

18.-(1) A person making a contract with any person who is not resident in the Areas or with any company not engaged in the carrying on of any business in the Areas, in respect of any activities of a description falling within section 16 or 17 shall deduct tax at the rate provided for by section 16 or, as the case may require, section 17, from any receipts on behalf of such person or company or from any payment made or to be made to such person or company, and send the tax immediately to the Commissioner, together with a statement giving full details concerning the circumstances consequent to which the deduction was made and

Deductions for tax chargeable under sections 16 and 17.

showing how the amount of tax deducted was calculated.

(2) Any tax required to be deducted under subsection (1) shall be considered as tax imposed on the person who is required to deduct it and may be recovered from him in any manner provided for by any provision relating to the collection of taxes:

Provided that nothing in this section shall be construed as precluding the recovery by the Commissioner of such tax from the person who earned the income on which the tax was charged, notwithstanding the fact that the tax was not imposed on that person:

Provided further that where the statements or particulars required under subsection (1) are not given in accordance with that subsection, the Commissioner may determine, to the best of his judgement, the amount of tax which ought to have been deducted.

(3) If any tax which has been or ought to have been deducted is not sent to the Commissioner in the month following the month in which it was, or as the case may be ought to have been deducted, an amount by way of interest shall be added to it, equal to the amount of interest chargeable on late or delayed payments of taxes, and the provisions of any legislation concerning the receipt and recovery of taxes shall apply in respect of the receipt and recovery of such interest.

(4) The provisions of any legislation relating to objections and appeals shall apply in respect of any decision of the Commissioner under this section, but the payment of any tax required by the Commissioner shall not be suspended pending the outcome of such objection or appeal.

PART V TAX RATES

Tax rates.

Second Schedule.

19. -(1) Subject to subsection (2), the rates at which tax shall be charged shall be as provided in the Second Schedule.

(2) The Commissioner may, by order published in the Gazette, amend any of the rates provided for in the Second Schedule, and any such order may be expressed to have effect from any date earlier than the date that the order is so published, but may not provide for tax to be chargeable at any time at a rate that exceeds the rate chargeable at that time under the corresponding provisions of the Republican legislation relating to income tax.

PART VI REORGANISATION OF COMPANIES

Transfer of assets and liabilities between companies on a re-organisation.

20. -(1) The transfer of the assets and liabilities of any company, including forecasts and surpluses under a reorganisation, shall not create profits chargeable to tax for the transferor company.

(2) The transferee company shall calculate subsequent depreciations and any profits or losses in respect of the transferred assets and liabilities, forecasts and surpluses, in accordance with the conditions which would have applied to the transferor company had the reorganisation not occurred.

21. In the case of a reorganisation of companies which are resident in the Areas or which have a permanent establishment in the Areas, any accumulated losses of the transferor company shall be transferred to the transferee and the provisions of section 13 relating to set off and the transfer of losses shall apply accordingly.

Transfer of accumulated losses.

22. When a transferee company which is resident in the Areas or, not being resident in the Areas, has a permanent establishment in the Areas, acquires a holding in the capital of a transferor company, any profits of the transferor company due to the cancellation of its holding shall not be subject to tax.

Certain profits of transferee company not subject to tax.

23. – (1) The issuing of shares in the capital of a transferee or acquiring company to a shareholder of the transferor or acquired company in exchange for shares in the capital of the transferor or acquired company, shall not in itself make the shareholder liable to tax on his profits or other benefits.

Shares in transferee company issued to shareholder of transferor company.

(2) Shares issued as described in subsection (1) shall have the same value for tax purposes as did the exchanged shares had immediately before the reorganisation.

(3) The application of subsection (1) shall not prevent the charging of tax on any profit arising from the subsequent transfer of the shares issued.

24. For the purposes of this Part “reorganisation” means any merger, division, transfer of assets or exchange of shares between companies at least one of which is resident in the Areas and -

Interpretation of Part VI.

(a) “merger” means an operation whereby-

- (i) one or more companies, on being dissolved without going into liquidation, transfer all their assets and liabilities to another existing company in exchange for the issue to their shareholders of shares representing the capital of that other company, and, if applicable, a cash payment not exceeding ten percent of the nominal value, or, in the absence of a nominal value, of the accounting par value of those shares,
- (ii) two or more companies, on being dissolved without going into liquidation, transfer all their assets and liabilities to a company that they form, in exchange for the issue to their shareholders of shares representing the capital of that new company, and, if applicable, a cash payment not exceeding ten percent of the nominal value, or in the absence of a nominal value, of the accounting par value of those shares,
- (iii) a company, on being dissolved without going into liquidation, transfers all its assets and liabilities to the company holding all the shares representing its capital;
- (b) “division” means an operation whereby a company, on being dissolved without going into liquidation , transfers all its assets and liabilities to two or more existing or new companies, in exchange for the pro rata issue to its shareholders of shares transferring the capital of the companies receiving the assets liabilities and, if applicable, a cash payment not exceeding ten percent of the nominal

value or, in the absence of a nominal value, the accounting par value of those shares,

- (c) “transfer of assets” means an operation whereby a company transfers without being dissolved all or one or more branches of its activity to another company in exchange for the transfer of shares representing the capital of the company receiving the transfer;
- (d) “exchange of shares” means an operation whereby a company acquires a holding in the capital of another company such that it obtains a majority of the voting rights in that company in exchange for the issue to the shareholders of the latter company, in exchange for their shares, of shares representing the capital of the former company, and, if applicable, a cash payment not exceeding ten percent of the nominal value or, in the absence of a nominal value, of the accounting par value of the shares issued in exchange;
- (e) “transferor company” means the company transferring its assets and liabilities or transferring all or one or more branches of its activity;
- (f) “transferee company” means the company receiving the assets and liabilities of all or one or more branches of the activity of the transferor company;
- (g) “acquired company” means a company in which a holding is acquired by another company by means of an exchange of shares;
- (h) “acquiring company” means a company which acquires a holding by means of an exchange of shares;
- (i) “branch of activity” means all the assets and liabilities of a division of a company which from an organisational point of view constitute an independent business, that is to say an entity capable of functioning by its own means.

PART VII

PERSONS ACTING IN A REPRESENTATIVE CAPACITY

Managers and
others acting in
a representative
capacity.

25. Managers, receivers, commissioners, executors or any other persons acting in a representative capacity and entrusted with the management or control of any property or business on behalf of another person, shall be liable to tax in respect of the income arising from such property or business in the same manner and for the same amount as the person whom they represent would be charged if he personally received such income, and such a manager, receiver, commissioner, executor or other person acting in such a representative capacity shall be responsible for complying with all the duties and obligations imposed by or under this Ordinance on the person whom they represent for the charging and payment of tax :

Provided that nothing in this section shall be construed as excluding the charging of tax in the name of the person who is represented by such a manager, receiver, commissioner, executor, or other person acting in a representative capacity.

26. – (1) Any person who is not resident in the Areas but who is liable to tax under this Ordinance shall be taxed in the name of his attorney, proxy, agent or representative, receiver, manager or custodian, whether or not the said attorney, proxy, agent or representative, receiver, manager or custodian collects the income, in the same manner and for the same amount as the person who is not resident in the Areas would be taxed if he personally received such income.

Attorneys and
others acting for
non-residents.

(2) Any person who is not resident in the Areas shall be liable to tax in respect of any income arising, directly or indirectly, from any power of attorney, agency, representation, partnership, or from the acts on his behalf of his receiver, manager or custodian.

(3) This section shall not make a person who is not resident in the Areas liable to tax in the name of a broker or commission agent or other representative in cases where the broker, commission agent or other representative is not an authorised person, carrying out the general representation of the non- resident in the Areas, or a person liable to tax as if he were a representative in accordance with subsections (1) and (2) in respect of profits or benefits arising from sales or dealings carried out through the said broker, commission agent or other representative.

27. – (1) If-

- (a) a business in the Areas participates directly or indirectly in the administration or the control or the capital of a business of another person; or
- (b) the same persons participate directly or indirectly in the administration, control or the capital of two or more businesses;

Transactions
between associated
parties.

and, in either of such cases, in the commercial or economic relations between the two businesses conditions are set or imposed which differ from those which would be set or imposed between businesses acting independently of each other, then any profits or benefits which, if such conditions did not exist, one of the businesses would have realised, but which, due to such conditions, it did not realise, may be included in the profits or benefits of such business and they shall be subjected to tax accordingly.

(2) Subsection (1) shall apply also in respect of any transactions between associated persons.

(3) For the purposes of this section-

- (a) a person is associated with another person if the first-mentioned person is a spouse or relative of the second-mentioned person, or is the spouse of a relative of the second-mentioned person, or is a relative of the spouse of the second-mentioned person;
- (b) a person is associated with any person with whom he maintains a partnership, and with the spouse or relative of any person with whom he maintains a partnership;
- (c) a company is associated with another company-
 - (i) if the same person controls both companies, or if a person controls one company and a person associated with him, or he and persons associated with him, control the other company; or

- (ii) if a group of two or more persons controls each company, and the groups are made up of the same persons or if the groups could be considered as being made up of the same persons taking into account (in one or more cases) that a member of either group may be substituted by a person with whom he is associated;
 - (d) a company is associated with another person if that person controls the company or that person and persons associated with him control the company;
 - (e) any two or more persons who take concerted action to secure control of, or who control a company shall be considered in relation to the company to be associated with one another and with any other person who acts on the directions of any of such persons to secure control of, or to control the company;
- (4) In this section-
- (a) “control”, in relation to a company, means the power of a person to obtain-
 - (i) through the possession of shares or voting rights in that company or in any other company, or
 - (ii) under any powers granted by the articles of association or other document governing the operation of that company or of any other company,
 - the conduct of the company’s affairs in accordance with his wishes; and
 - (b) “control” in relation to a partnership, means the right to over one half of the assets of the partnership or the right to over one half of the income of the partnership;
 - (c) “relative” in relation to a person means his spouse and any person up to the third degree of kinship whether or not through marriage.

PART VIII

DOUBLE TAXATION RELIEF

Making of arrangements with foreign Governments for relief from double taxation.

28. -(1) If the Administrator by order declares that arrangements specified in the order have been made with the Government of any country or territory outside the Areas with a view to affording relief from double taxation in relation to income tax and any other tax of a similar character imposed by the laws of that country or territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything contained in any Ordinance.

(2) An Order made under this section may be revoked, amended or substituted from time to time.

Application of arrangements for relief from double taxation.

29. – (1) The provisions of this section shall apply where, under arrangements having effect under section 28, tax payable in respect of any income in the country or territory with the Government of which the arrangements are made, is to be allowed as a credit against tax payable in respect of that income in the Areas; and in this section the expression “foreign tax” means any tax payable in that country or territory which under the arrangements is to be so allowed.

(2) The amount of the tax chargeable in respect of the income shall be reduced by the amount of the credit.

(3) The credit shall not exceed the amount which would be produced by calculating the amount of the income in accordance with the provisions of this Ordinance and then charging it to tax at a rate ascertained by dividing the tax chargeable (before allowance of credit under any arrangements having effect under section 28) on the total income of the person entitled to the income by the amount of his total income.

(4) Without prejudice to the provisions of subsection (3), the total credit to be allowed to a person for any tax year for foreign tax under all arrangements having effect under section 28 shall not exceed the total tax payable by him for that tax year.

(5) In calculating the amount of the income-

- (a) no deduction shall be allowed in respect of foreign tax whether in respect of the same or any other income;
- (b) where the tax chargeable depends on the amount received in the Areas, such amount shall be increased by the appropriate amount of the foreign tax in respect of the income;
- (c) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any credit is to be given against tax in respect of the dividend, the amount of the income shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in calculating the amount of the credit:

Provided that notwithstanding anything in the preceding provisions of this subsection, a deduction shall be allowed of any amount by which the foreign tax in respect of the income exceeds the credit therefor.

(6) Paragraphs (a) and (b) of subsection (5) shall apply to the calculation of the total income for the purposes of determining the rate mentioned in subsection (3) and shall apply thereto in relation to all income in the case of which credit falls to be given for foreign tax under arrangements for the time being in force under section 28.

(7) Where-

- (a) the arrangements provide, in relation to dividends of some classes but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any credit is to be given against tax in respect of the dividends; and
- (b) a dividend is paid which is not of a class in relation to which the arrangements so provide, then, if the dividend is paid to a company which controls, directly or indirectly, not less than fifty percent of shares with a voting right in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements against tax chargeable in respect of the income of any person for any tax year if he elects that credit shall not be allowed in the case of his income for that year.

(9) Any claim for an allowance by way of credit shall be made not later than six years from the end of the tax year to which the claim relates, and in the event of any dispute as to the amount allowable, the claim shall be subject to objection and appeal in like manner as an assessment.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of tax payable either in the Areas or elsewhere, nothing in this Ordinance limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the Areas or elsewhere, as are material in determining whether any credit falls to be given.

Other relief from double taxation.

30. – (1) Where the Commissioner is satisfied that a person has paid income tax on income earned in a country or territory outside the Areas with whose Government no arrangements to afford relief from double taxation have been made as described in section 28 and the income is also subject to income tax under this Ordinance, the Commissioner shall allow that person a reduction in the amount of tax that he is liable to pay under this Ordinance, the amount of which reduction shall not exceed the amount of tax paid in the foreign country or territory in respect of that income.

(2) In relation to any claim for a reduction in the amount of tax payable by any person under this section, the procedures provided for under section 29 shall apply with appropriate modifications.

(3) Notwithstanding any other provisions of this Ordinance, profits of a person from a permanent establishment outside the Areas shall be exempt from tax:

Provided that where any loss has been transferred under section 13 in respect of any loss in an earlier year from a permanent establishment outside the Areas, an amount of profit equal to the amount of losses so transferred shall be treated as taxable income.

(4) The provisions of subsection (3) shall not apply –

(a) if more than fifty percent of any investment income arises directly or indirectly from the activities of the permanent establishment; and

(b) the foreign tax charged on the income from the permanent establishment is significantly lower than the amount charged on a person who is resident in the Areas or on a person controlling the permanent establishment and resident in the Areas.

(5) A payment for providing services outside the Areas for a total period in a tax year of over ninety days to an employer who is not resident in the Areas or to the permanent establishment of an employer who is resident in the Areas shall be exempt from tax.

PART IX

GENERAL POWERS OF THE COMMISSIONER

31. The Commissioner may, by notice in writing, require any person to furnish him with such particulars as he may require for the purposes of this Ordinance with respect to the income of such person or to attend before him and give evidence with respect to his income and to produce any accounts, books or other documents in his custody or under his control relating to such income.

Commissioner's powers to require particulars etc.

32. Subject to the provisions of paragraph (m) of section 8, any company which is controlled by not more than five persons and which grants a loan or any other monetary facility to its directors or its shareholders or, where such directors or shareholders are individuals, to their relatives up to the second degree of relationship, the Commissioner may treat the company as receiving interest on the loan at the rate of 9% annually.

Commissioner's power to treat company as receiving interest at a fixed rate of 9%.

PART X

ASSESSMENT AND CHARGING OF TAX ON SALARIES

33. For the purposes of sections 34, 35 and 37, the expression "salary" means income earned by a person from profits or benefits as these are more particularly described in section 5(1)(b) and section 5(2)(b), and it also includes any pensions.

Meaning of "salary".

34. Notwithstanding any other provision of this Ordinance, for each tax year, tax shall be imposed on all salaries for the year, and upon the payment of any salaries or of any amounts on account of any salaries, tax shall be retained by the person paying the salaries or amounts on account of salaries, in accordance with regulations made by the Administrator under section 37, notwithstanding the fact that at the time that the payments are made tax might not have been charged on salaries, and notwithstanding the fact that the payments may relate in whole or in part to salaries for a tax year other than the tax year in which the payments are made.

Retention of tax on payment of salary.

35. The other provisions of this Ordinance relating to income shall apply to income from salaries to the extent that those provisions are consistent with section 34.

Other provisions of Ordinance applicable to salaries.

PART XI

MISCELLANEOUS PROVISIONS

36. Where any provision of this Ordinance is inconsistent with any provision of the Treaty of Establishment relating to income tax, the provision of the Treaty of Establishment shall prevail.

Tax provisions of Treaty of Establishment to prevail.

37. – (1) The Administrator may make regulations with respect to the assessment, charge, collection and recovery of tax on salaries as defined in section 33 and such regulations may include provisions–

Regulations.

(a) requiring any person making any payment of, or on account of, any salaries to make a deduction when making the payment, of tax calculated by reference to tax tables prepared by the Commissioner and for rendering persons who are required to make any such deduction accountable to the Commissioner;

- (b) for the production to and inspection by the Commissioner or any person authorised by him of salaries sheets and other documents or records for the purpose of satisfying the Commissioner that tax has been and is being deducted and accounted for in accordance with the regulations;
- (c) for the collection and recovery, whether by deduction from income which is paid in any later year or otherwise, of tax in respect of salaries to which this Ordinance applies which has not been deducted or otherwise recovered during the year.

The tables referred to in paragraph (a) shall be drawn up in such a manner that, so far as it is possible, all the tax payable on the salaries of a person for any tax year is obtained from the deductions from the payments to him of, or on account of, salaries made to him during that year.

(2) The Administrator may make regulations for giving effect to arrangements made under section 28.

(3) The Administrator may make such other regulations as he considers necessary or expedient for the more effective application of the provisions of this Ordinance.

(4) A person who fails to comply with, or who contravenes any of the provisions of any regulation made under this section shall be guilty of an offence.

(5) Any regulations made under this section shall be published in the Gazette and may be expressed to have effect from any date before they are so published.

38.—(1) The Income Tax Ordinance, the Income Tax (Amendment) Ordinance 1961 and the Income Tax (Amendment) Ordinance 1966 are hereby repealed.

Repeals,
commencement
and transitional
provisions.
Cap.323 (Laws of
Cyprus).
Ordinance 16/61.
Ordinance 11/66.

(2) This Ordinance shall come into force on 1st January 2004.

FIRST SCHEDULE

(Section 2)

Descriptions of companies referred to in the definition “company” in section 2.

1. Companies under Belgian law known as “société anonyme” / naamloz vennootschap”, “société en commandite par actions” / “commanditaire vennootschap op aandelen”, “société privée à responsabilité limitée” / “besloten vennootschap met beperkte aansprakelijkheid” and those public law bodies that operate under private law;
2. Companies under Danish law known as: “aktieselskab”, “anpartsselskab”;
3. Companies under German law known as: “Aktiengesellschaft”, “Kommanditgesellschaft auf Aktien”, “Gesellschaft mit beschränkter Haftung”, “bergsrechtliche Gewerkschaft”;
4. Companies under Greek law known as: “εταιρεία μη κερδοσκοπή”;
5. Companies under Spanish law known as: “sociedad anónima”, “sociedad comanditaria por acciones”, “sociedad de responsabilidad limitada” and those public law bodies which operate under private law;

6. Companies under French law known as “société anonyme”, “société en commandite par actions”, “société à responsabilité limitée” and industrial and commercial public establishments and undertakings;
7. Companies under Irish law known as public companies limited by shares or by guarantee, private companies limited by shares or by guarantee, bodies registered under the Industrial and Provident Societies Acts or building societies registered under the Building Societies Acts;
8. Companies under Italian law known as “società per azioni”, ‘società in accomandita per azioni”, “società à responsabilità limitata”, and public and private entities carrying on industrial and commercial activities;
9. Companies under Luxembourg law known as “société anonyme”, “société en commandite par actions”, “société à responsabilité limitée”;
10. Companies under Dutch law known as: “naamloze vennootschap”, “besloten vennootschap met beperkte aansprakelijkheid”;
11. Commercial companies or civil law companies having a commercial form as well as other bodies corporate carrying on commercial or industrial activities, which are incorporated in accordance with Portuguese law;
12. Companies incorporated under the law of the United Kingdom;
13. Companies under Austrian law known as “Aktiengesellschaft”, “Gesellschaft mit beschränkter Haftung”
14. Companies under Finnish law known as “osakeyhtio / aktiebolag”, “osuruskunta / andelslag”, “saastopankki / sparbank” or “vakuutusyhio / forsakringsbolag”;
15. Companies under Swedish law known as “aktiebolag”, “bankakticbolag”, “forsakringsbolag”;
16. Companies under Czech law known as: “aktiebolag”, “bankakticbolag”, “forsakringsbolag”;
17. Companies under the Estonian law known as “tõisõhing”, “usaldusõhing”, “osaõhing”, “aktsiaselts”, “tulundusõhistu”;
18. Companies under Latvian law known as “akciju sabiedrba”, “sabiedrba ar ierobeatu atbildbu”;
19. Companies under Lithuanian law known as : “individualios (personalins) mons”, “tikrosios kins bendrijos”, “Komaditins (pasitikjimo) kins bendrijos”, akcins bendrovs”, udarosios akcins bendrovs”, “investicins bendrovs”, “valstybs mons”, “sarivaldybs mons”, “ems kio bendrovs”, “kooperatins bendrovs (kooperatyvai)”;
20. Companies under Hungarian law known as: “kozkereseti tarsasag”, “kozoz vallat”, “Korlatolt felelosseg”, “tarsasag”, “egyesules”, “szovetkezet”;
21. Companies under Maltese law known as: “kumpaniji ta Responsabilita Limitata”, “Sojetajiet en commandite li l-kapital taghom maqsum fazjonijiet”;
22. Companies under Polish law known as: “sp1/2ka akcyjna”, “sp1/2ka z ograniczon odpowiedzialnoci”;
23. Companies under Slovenian law known as: “delika druba”, “komanditna druba”, druba z omejeno odgovornostjo”;
24. Companies under Slovak law known as: “Akciov spolonas”, “Spolonas s ruefm obmedzenúm”, “Verejn lobchodn spolonas”, “Komandit spolonas”.

SECOND SCHEDULE
(Section 19)
RATES OF TAX

1. Subject to paragraph 2 below, the tax rates for individuals shall be as set out in the following Table:

Taxable income	Tax rate
On every pound not exceeding £10.000	Nil
On every pound in excess of £10.000 but not exceeding £15.000	20 cents
On every pound in excess of £15.000 but not exceeding £20.000	25 cents
On every pound in excess of £20.000	30 cents

2. Companies, excluding public utility organisations, shall be liable to a company tax rate of ten cents on each pound of taxable income.

7th July 2003

(104)

W. M. Jessett

Chief Officer.

Marginal Notes

1. Short title.
2. Interpretation.
3. Cap.113 (Laws of Cyprus) as amended by Ordinances 11/1968, 10/1987, 9/1990 and 7/1995.
4. First Schedule.
5. The Commissioner.
6. Secrecy and confidentiality.
7. Charge of tax.
8. Basis of charge of tax.
9. Date for closing annual accounts of a business.
10. Exemptions.
11. Deductions allowed.
12. Ordinance 12/1975 as amended by Ordinances 7/1981, 2/1996 and 3/1998.
13. Reductions and additions on account of fixed assets.
14. Deductions not allowed.
15. Valuation of trading stock on discontinuance of a business.
16. Allowance of trade losses.
17. Deduction in respect of life insurance and contributions to pensions and other funds.
18. Non-residents' pensions from abroad.
19. Income from intellectual property rights etc.
20. Income of certain classes of non-residents.
21. Deductions for tax chargeable under sections 16 and 17.
22. Tax rates.
23. Second Schedule.
24. Transfer of assets and liabilities between companies on a re-organisation.
25. Transfer of accumulated losses.
26. Certain profits of transferee company not subject to tax.
27. Shares in transferee company issued to shareholder of transferor company.
28. Interpretation of Part VI.

29. Managers and others acting in a representative capacity.
30. Attorneys and others acting for non-residents.
31. Transactions between associated parties.
32. Making of arrangements with foreign Governments for relief from double taxation.
33. Application of arrangements for relief from double taxation.
34. Other relief from double taxation.
35. Commissioner's powers to require particulars etc.
36. Commissioner's power to treat company as receiving interest at a fixed rate of 9%.
37. Meaning of "salary".
38. Retention of tax on payment of salary.
39. Other provisions of Ordinance applicable to salaries.
40. Tax provisions of Treaty of Establishment to prevail.
41. Regulations.
42. Repeals, commencement and transitional provisions.
43. Cap.323 (Laws of Cyprus).
44. Ordinance 16/1961.
45. Ordinance 11/1966.